

Doc Code: AP.PRE.REQ

PTO/SB/33 (11-08)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

068029-5005

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Application Number

10/549,877

Filed

December 19, 2005

First Named Inventor

Miles Stephen CAIN

Art Unit

1794

Examiner

Victor S. Chang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 33,652

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____


Signature

Mary Jane Boswell

Typed or printed name

202-739-3000

Telephone number

December 2, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
ATTORNEY DOCKET NO.: 068029-5005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Miles Stephen CAIN et al.)	Confirmation No.: 5886
)	
Application No.: 10/549,877)	Group Art Unit: 1794
)	
Filed: December 19, 2005)	Examiner: Victor S. Chang
)	
For: ADHESIVE FABRIC)	
)	

Commissioner for Patents
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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Final Office Action dated June 4, 2008 and the Advisory Action dated October 22, 2008, Applicants respectfully request a Pre-Appeal Brief for Review of the pending rejections. A Notice of Appeal is filed concurrently herewith. Claims 1-3 and 20-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0120972 to Nakamura ("*Nakamura*") in view of U.S. Patent No. 6,200,195 to Furuno ("*Furuno*"). Applicants respectfully submit that the final rejections of claims 1-3 and 20-47 under 35 U.S.C. § 103(a) are improper for the following reasons.

First, independent claim 1 recites a combination including "an impervious barrier layer bonded on one side of a fabric substrate." The Advisory Action alleges that flexible film layer 11 of *Nakamura* reads on an impervious barrier layer as claimed. Applicants respectfully

disagree. Flexible film layer 11 has vent holes. See *Nakamura*, par. [0036]. Therefore, flexible film layer is clearly not “impervious.” The Advisory Action interprets the term “impervious” as meaning “that the barrier layer has sufficient thickness for preventing the adhesive silicone gel from being absorbed into the fabric substrate through its thickness direction when the sag preventing member is laminated to a fabric under pressure and heat.” Advisory Action, p. 2. This interpretation is not consistent with the plain meaning of the term “impervious.” As stated in the Amendment dated April 17, 2008 at page 3, “impervious” is defined as “[i]mpossible to penetrate.” Further, it is unclear why the Advisory Action limits the interpretation to situations where “the sag preventing member is laminated to a fabric under pressure and heat.” The current invention contemplates other means of adhering the barrier layer and adhesive layer to the fabric. See, e.g., specification, p. 12, l. 15 – p. 13, l. 7.

Second, claim 1 recites “whereby the barrier prevents absorption of the adhesive silicone gel coating into the fabric substrate.” The Advisory Action alleges that flexible film layer 11 of *Nakamura* reads on a barrier as claimed. Applicants respectfully disagree. Flexible film layer 11 does not prevent absorption of the adhesive layer 12 into the fabric substrate. As discussed at least in the Response under 37 C.F.R. § 1.116 dated October 6, 2008, the adhesive layer is cured prior to the installation of the layer sheet. Therefore, the adhesive layer would not absorb in the fabric, with or without the presence of flexible film layer 11. Therefore, flexible film layer 11 does not “prevent[] absorption of the adhesive silicone gel coating into the fabric substrate.”

For at least the above reasons, Applicants submit that independent claim 1 is in condition for allowance. Further, Applicants submit that dependent claims 2, 3, and 20-47 are allowable at

least because of their dependency from independent claim 1 and the reasons set forth above.

Allowance of claims 1-3 and 20-47 is earnestly solicited.

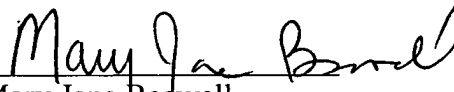
In view of the foregoing, Applicants respectfully submit that the rejections made in the final Office Action and Advisory Action are in error and therefore should be withdrawn. If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R.

1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: December 2, 2008

By: 
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